

STATEMENT OF CONSIDERATIONS

REQUEST BY GENERAL ELECTRIC COMPANY (GE) FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN RIGHTS TO INVENTIONS MADE UNDER COOPERATIVE AGREEMENT NUMBER DE-FC04-2002AL68080, DOE WAIVER NO. W(A) 03-003.

The Petitioner, GE, has requested a waiver of all domestic and foreign patent rights to inventions that may be conceived or first actually reduced to practice in the course of GE's work under Cooperative Agreement Number DE-FC04-2002AL68080 entitled "Advanced Hybrid Propulsion and Energy Management System for High Efficiency, Off-Highway, 320 Ton Class, Diesel Electric Haul Trucks."

The work to be done under the cooperative agreement will be the design, fabrication and demonstration of a hybrid propulsion and energy management system for off-highway vehicles used in mining applications. The hybrid propulsion system would allow for an 18% increase in fuel economy and proportionate reduction in emissions. Such a hybrid propulsion system would lead to an increase in competitiveness and productivity of the U.S. mining industry, as well as result in better air quality and lowered dependence on unstable overseas oil supplies.

The cooperative agreement covers a period from June 1, 2002 through May 31, 2007 at a total estimated cost to DOE of \$1,818,000. GE will provide an estimated \$1,918,00 as a cost share (51%) over the life of this agreement. The government contribution will be made through Budget & Reporting Code EE0506 & EE0702 sponsored by the Office of Heavy Vehicle Technologies.


GE is a Fairfield, CT-based, U.S. corporation with a global market presence and 23 years of experience in hybrid vehicle development as well as 39 years of experience in electric drives for mining vehicles. GE owns over 58 patents in the field of hybrid and diesel electric transportation technology. GE is the world's leading manufacturer of diesel-electric drive systems for mining vehicles. GE has already invested \$509,000 in the research of the technology to be developed under this cooperative agreement. GE is one of many global companies competing in the highly competitive mine vehicle market. As such, based on the nature of the technology, as well as the research and development being done in this field worldwide, it is not foreseen that the grant of this waiver would decrease competition, cause undesirable market concentration, nor place GE in a dominant market position.

GE has agreed to abide by 35 U.S.C. §§ 202, 203 and 204, as well as the provisions of the Standard Patent Rights clause for an Advance Waiver. Additionally, GE has agreed to the provisions of the attached U.S. Competitiveness Clause, which requires Petitioner to substantially manufacture any products embodying or produced through any waived invention in the United States, unless Petitioner can convince DOE it is not commercially feasible to do so. Petitioner agrees to make this condition binding on any assignee or licensee. GE will abide by the Export Control laws and will require its licensees, if any,

to do the same. GE will expend such sums as may be required to maintain the necessary patent protection and provide incentive for commercial development of the invention. Furthermore, GE has affirmatively agreed to the background data rights clause found in 48 CFR 952.227-14, Alternate VI (February 1998) (attached).

Considering GE's status as a global leader in the development and production of mining vehicle drive systems, it is concluded that the grant of the requested waiver is most likely to achieve commercialization success and actual implementation of the new hybrid, diesel-electric, propulsion system on both a national and global scale.

As such, upon evaluation of the Waiver Petition in view of the objectives and considerations set forth in 10 CFR 784.4, all of which have been considered, it is recommended that the requested waiver be granted.



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Based on the foregoing Statement of Considerations and the representations of the attached Waiver Petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above and, therefore, the waiver is granted. This waiver shall not apply to a modification or extension of the cooperative agreement where, through such modification or extension, the purpose, scope or DOE cost of the cooperative agreement have been substantially altered.

CONCURRENCE:



Edward J. Wall
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Date: 11/17/03



APPROVAL:

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Date: 11-26-03

DOE Project Manager: Rick Balthaser